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10/068,429

02/06/2002

Christopher G. Rowan

2001-0101-1

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11/24/2006

CYMER INC
LEGAL DEPARTMENT
17075 Thornmint Court
SAN DIEGO, CA 92127-2413

EXAMINER

BASIT, ABDUL

ART UNIT

PAPER NUMBER

3694

DATE MAILED: 11/24/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/068,429

Applicant(s)

ROWAN ET AL.

Examiner

Abdul Basit

Art Unit

3694

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-32 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-32 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date ____ | 6) <input type="checkbox"/> Other: ____ |

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-32 are rejected under 35 U.S.C. 103(a) as being unpatentable over Porter in view of Treacy, and in further view of Prahalad and in further view of Keeney.

3. Regarding claim 1, 15, and 24, the article, "How competitive forces shape strategy," by Michael Porter, teaches how to formulate and implement strategy for seeking opportunities in a market by understanding how current trends, such as threat of new entrants, the bargaining power of customers, and competition with other competitors. *Porter at 139-140.*

- Porter also teaches how a plan may include either improving a company's position within the market or creating a new position before competitors. *Porter at 138*
- Porter also teaches how formulating a strategy will determine how to prioritize a product portfolio. *Porter at 143-144.*
- Porter also teaches barriers of entry, by determining the cost of entry into a new market. Determining the cost of entry requires financial and marketing analysis, which is also taught by Porter. *Porter at 144.*

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- Porter also inherently teaches that a course of action should be taken consistent with a change in business strategy.
5. Porter does not teach value propositions. Treacy teaches value propositions such as operational excellence, customer intimacy, or product leadership. *Treacy, at 84-85.*
 6. Neither Porter nor Treacy teach core competence or the creation of core products. Prahalad teaches core competence, as a part of corporate strategy. *Prahalad at 79-81.* By determining core competence, Prahalad teaches how to apply the core competence to new markets. *Id. at 82.* Prahalad uses examples such as 3M's competence with sticky tape and using it to create a more diversified portfolio of business. *Id. at 82.* Another example given by Prahalad is how Honda used its core competence to start another car line - Acura. *Id. at 86.*
 7. Neither the Porter, Treacy, nor Prahalad teach mission and vision statements. Keeney teaches how a mission and vision statement can be used to determine objectives. *Keeney at 4.*
 8. Therefore it would have been obvious to one of ordinary skill in the art at the time of the invention to take the strategic analysis provided by Porter and incorporate the application of core competence to new markets taught by Prahalad, the creation of value propositions taught by Treacy, and the vision and mission statement taught by Keeney.

9. Motivation exists in Porter. Strategy is defined by Webster's II Dictionary as a plan of action for attaining a goal. Porter teaches business strategy, which suggests attaining a business goal. One of ordinary skill in the art would have been motivated to use the marketing and financial methodologies taught by Prahalad and Treacy as innovative techniques to carry out the a plan of action for attaining a goal of obtaining a greater market share taught by Porter. Motivation also exists in Treacy to include a vision statement. Treacy teaches objectives such as operational excellence that requires the creation of objectives that stem from a mission and vision statement. Keeney teaches the creation of a vision and mission statement that focuses on the foundation of what the objectives should be.

10. Regarding claims 2,16, and 25, Porter further teaches establishing a strategic agenda for dealing with currents within the industry a business works in. *Porter at 138.*

11. Regarding claims 3,17, and 26, Prahalad further teaches the use of using core competencies to apply technical and market knowledge to new markets. *Prahalad, at 79-80.* Porter teaches the use of a general market assessment. *Porter at 138-140*

12. Regarding claims 4,18, and 27, Prahalad further teaches how businesses should determine core products that also determine market segments that will be assessed by their profitability within the market. *Prahalad at 89-90.* Porter further teaches a market assessment. *Porter at 139-142.* Official notice is given that it is well known to use a product life cycle in a marketing plan.

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13. Regarding claims 5, 19, and 28, Prahalad suggests to a person of ordinary skill in the art to use financial criteria to prioritize product portfolio.

14. Regarding claims 6, 20, and 29, Porter suggests to a person of ordinary skill in the art that senior staff in a corporation would review elements of strategic planning.

15. Regarding claims 7, 21, and 30, Treacy further teaches evaluating a set of discipline for a value proposition, by using the example of Kraft and its analysis of different kinds of shoppers for the value proposition of customer intimacy. *Treacy at 89.*

16. Regarding Claims 8, 22, and 31, Keeney further teaches the establishment of the mission statement as groundwork for the future direction of the business, as well as encompassing the organizational culture. *Keeney at 4.*

21. Regarding claims 9, 23, and 32, Prahalad further teaches the determination of product core competencies, and the prioritization of the core competency. *Prahalad at 84*

22. Regarding claims 10, Prahalad further teaches the use of existing competencies to create a market opportunity map. A market opportunity map is defined as by the applicant as applying core competency and technical and market knowledge to new markets. Prahalad teaches the application of a core competency to new markets. *Prahalad at 89-90.*

23. Regarding claim 11, Prahalad suggests that a market opportunity map based on a periodic interval, such as five years, should be re-prioritized.

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24. Regarding claim 12, Porter would suggest to an ordinary person of skill in the art that a marketing plan will include a detailed market analysis and analysis of the product life cycle.

25. Regarding claim 13, official notice is given that it is old and well known in the art to prioritize by using a checklist. Therefore it would obvious to one of ordinary skill in the art at the time of the invention to combine this knowledge with Porter, Treacy, Prahalad and Keeney. Motivation exists to use a checklist for providing an easier method of making business decisions in marketing.

26. Regarding claim 14, official notice is given that is old and well known in the art that when a business is interested in acquiring another business, that business will contact an acquisition candidate, perform due diligence and integrate the acquired business into the current business structure. Therefore it would obvious to one of ordinary skill in the art at the time of the invention to combine this knowledge with Porter, Treacy, Prahalad and Keeney. Motivation exists, because acquiring new companies is a practical method of implementing strategic planning.

Conclusion

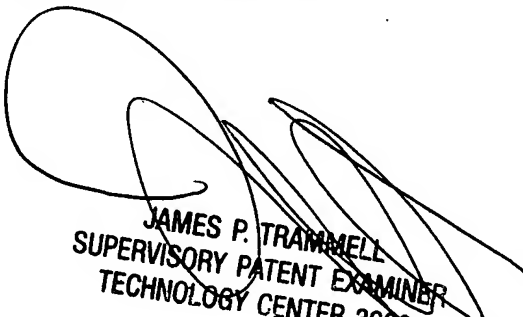
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Abdul Basit whose telephone number is 571 272-7246. The examiner can normally be reached on Monday - Friday, 8:30am to 5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James Trammell can be reached on 571 272 6712. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

AQB



JAMES P. TRAMMELL
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3600